

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUSSELL S. GRANT,

Plaintiff,

v.

D. RIOS,

Defendant.

Case No. 1:20-cv-00908-JLT-EPG (PC)

ORDER GRANTING DEFENDANT'S
MOTION TO STAY MERITS-BASED
DISCOVERY AND MODIFY SCHEDULING
ORDER

(ECF No. 42)

Russell Grant ("Plaintiff") is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Before the Court is Defendant's motion to stay merits-discovery and to modify the scheduling order. (ECF No. 42).

On January 10, 2022, Defendant filed a motion for summary judgment based on Plaintiff's failure to exhaust administrative remedies. (ECF No. 41). On that same day, Defendant filed a motion to stay merits-based discovery and to vacate the non-expert discovery, reporting on the viability of a settlement conference, and dispositive motion deadlines pending resolution of the motion for summary judgment. (ECF No. 42). Plaintiff did not file an opposition or any other response to Defendant's motion to stay.

District courts have broad discretion in deciding whether to stay a case. See Landis v. N. Am. Co., 299 U.S. 248, 254 (1936) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time

1 and effort for itself, for counsel, and for litigants.”). The moving party has the burden to show
2 that a stay is appropriate. Clinton v. Jones, 520 U.S. 681, 708 (1997). In determining whether to
3 enter a stay, the court must consider the competing interests at stake, including (1) “the possible
4 damage which may result from the granting of a stay,” (2) “the hardship or inequity which a party
5 may suffer in being required to go forward,” and (3) “the orderly course of justice measured in
6 terms of the simplifying or complicating of issues, proof, and questions of law which could be
7 expected to result from a stay.” CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962)
8 (citing Landis, 299 U.S. at 254-55).

9 Applying the relevant factors to this case, the Court finds that Defendant’s unopposed
10 motion to stay merits-based discovery and vacate deadlines should be granted. Defendant’s
11 motion for summary judgment may resolve the case in its entirety. Without resolving the
12 exhaustion issue, the Court has reviewed the pending motion for summary judgment, and it
13 appears to present a colorable defense based on exhaustion. According to Defendant’s motion,
14 the incident occurred on December 6, 2019, and Plaintiff had thirty days to submit an appeal
15 regarding the issue. On August 14, 2020, Plaintiff’s institution of confinement received a three-
16 page letter dated January 7, 2020, that was addressed to the Federal Bureau of Investigation.
17 (ECF No. 41-2, p. 4). The letter included allegations regarding the December 6, 2019 incident,
18 and so was treated as a grievance even though it was not filed on the proper form. (Id.).
19 However, the grievance was canceled as untimely because it was not filed within thirty days of
20 the incident. (Id.). Moreover, Plaintiff appealed the cancelation after he filed this action. (Id. at
21 10).

22 Based on the foregoing, the parties’ and the Court’s time and resources will be conserved
23 by a stay. Additionally, the stay will not impose undue hardship or inequity to the parties at this
24 stage in the case. Thus, the Court will stay all discovery and pending deadlines in the case and
25 will reset any necessary deadlines following a final ruling on the motion for summary judgment if
26 Plaintiff’s claim proceeds.

27 Accordingly, IT IS HEREBY ORDERED that:

- 28 1. Defendant’s motion to stay discovery and vacate deadlines (ECF No. 42) is

1 GRANTED; and

- 2 2. Merits-based discovery¹ is stayed and the non-expert discovery, reporting on the
3 viability of a settlement conference, and dispositive motion deadlines are vacated.
4 The Court will lift the stay and reset these deadlines, if necessary, after the District
5 Judge issues an order on Defendant's pending motion for summary judgment (ECF
6 No. 41).

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8 IT IS SO ORDERED.

9 Dated: **February 22, 2022**

/s/ Eric P. Gray
10 UNITED STATES MAGISTRATE JUDGE
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28 ¹ The Court notes that it is not staying discovery on the issue of exhaustion of available administrative remedies.